

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2938 OF 2005

Mr. Ramachal Ram Naresh Patel Petitioner

Versus

The State of Maharashtra & Ors. Respondents

Ms. Shubhangi P. Chavan i/by A.M. Saraogi for the
Petitioner.

Mr. S.R. Shinde, A.P.P. for the State.

CORAM : ABHAY S. OKA, J.

DATE : 28TH AUGUST, 2006

P.C.

1) Heard the learned Advocate appearing for the
Petitioner. By this petition under Article 227 of the
Constitution of India read with Section 482 of the Code
of Criminal Procedure, 1973, the Petitioner has taken
exception to the Judgement and Order dated 2nd April
2004 passed by the learned Additional Sessions Judge.

2) According to the case of the Petitioner, on 2nd
August 1992 he was attacked by the second to fourth

Respondents. Bhandup Police registered F.I.R. for commission of offence under Section 324 of the Indian Penal Code. At the instance of second to fourth Respondents, a cross complaint was registered by Bhandup Police. On the basis of the same incident, the Petitioner filed a private complaint. On the said complaint, learned Metropolitan Magistrate issued process under Section 307 of the Indian Penal Code. The two cases filed on the basis of F.I.R. registered by Bhandup Police and the private complaint filed by the Petitioner were committed to the Court of Sessions. By the impugned Judgment and Order, the learned Additional Sessions Judge held that no case for framing a Charge under Section 307 of the Indian Penal Code was made out against the second to fourth Respondents. The learned Additional Sessions Judge held that Charge under Section 307 of the Indian Penal Code cannot be framed against the second to fourth Respondent and no fault can be found with the action of Bhandup Police Station of filing a Chargesheet under Section 324 read with Section 114 of the Indian Penal Code. After considering the material on record, the learned Additional Sessions Judge held that prima facie none of the charges are exclusively triable by the Court of the Sessions.

3) The learned Advocate for the Petitioner invited my attention to the nature of injuries sustained by the Petitioner. It was submitted that it was obvious that

prima facie case for framing charge under Section 307 of the Indian Penal Code was made out.

4) I have considered the submissions made by the Advocate for the Petitioner. The learned Additional Sessions Judge has held that only on the basis of injuries allegedly sustained by the Petitioner, one cannot jump to the conclusion that Section 307 of the Indian Penal Code was attracted. He held that merely because iron bar was allegedly used as a weapon of assault against the Petitioner, a Charge under Section 307 of the Indian Penal Code cannot be framed. Therefore, by the impugned Order, the learned Additional Sessions Judge directed that the cases which were committed to his Court should be sent back to the Court of concerned Metropolitan Magistrate.

5) I find no reason to interfere with the said order. It is pertinent to note that the impugned order was passed on 2nd April 2004 and the present petition has been filed on 5th December 2005. No case for interference is made out. Petition is therefore rejected.

(ABHAY S. OKA, J.)